

**Excerpt from the Juvenile Defender Delinquency Notebook:
A Case Preparation System for New Juvenile Defenders**

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FORM F1. DETAILED INITIAL CLIENT INTERVIEW CHECKLIST

While the following checklist is intended to prepare you for the interview, Form 2. Detailed Initial Client Interview Form is intended to serve as a ready reference while actually conducting the interview.

1.1. Interview preparation

- Have you and your client cleared a large block of time to allow for a detailed interview?
- Have you carefully read over the petition, police reports, and other court documents?
- Have you read and researched the statutory provisions of the charged offenses?

1.2. Have the following items handy

- Copies of any initial discovery, such as the petition and police reports
- Several copies of the Authorization for Release of Information
- A copy of the juvenile and criminal codes
- At least two business cards and one Assertion of *Miranda* Rights card
- A copy of the JustChildren *Helping You Help Your Child* parent manual
- A copy of Form F2. Detailed Initial Client Interview Form on page 124

1.3. Initial meeting with the client and her parent

1.3.1. Build rapport with both the client and the parent

- Introduce yourself to both the client and the parent.
- Take the time to get to know your client's parent. Get a sense of her concerns about your client and your client's case.

1.3.2. Explanation of basic concepts and documents

- Explain your **role as the client's attorney**. Tell her, "I am your voice in court." Make sure to emphasize that you work for the client and not for the police or the prosecution or the parent.
- Explain the **duty of confidentiality** and the **attorney-client privilege**.
- Explain Form F3. **Authorization for Release of Information** on page 145.
- Have the client, parent, and witness sign several copies of the Authorization for Release of Information. Give one copy to the client and keep the remaining copies.
- Explain the **charges**.
- Explain the possible range of **penalties** facing the client according to the statute.
- Explain the **juvenile justice process** and give them an estimated **chronology** from now.

- Politely explain to the parent that you must now meet alone with your client. If she objects, explain that if she stays and listens she may jeopardize the attorney-client privilege and could be subpoenaed into court to testify against her child.

1.4. Private meeting with the client

1.4.1. Explain the basic concepts of her delinquency case and your role in it.

- Establish **rapport** with the client. Take the time to get to know her and listen to her concerns about her case and her current situation.
- Revisit the **duty of confidentiality**, the **attorney-client privilege**, and **your duty of zealous advocacy**. Ask the client to explain it back to you to ensure that she understands. Professors Hertz, Guggenheim, and Amsterdam have provided an excellent model for this conversation:

Now, I'm going to ask you to tell me some things about yourself and also about this charge they have against you. Before I do, I want you to know that everything you tell me is strictly private, just between you and me. Nothing you tell me goes to the police or the prosecutor or the judge or your parent(s) or anybody else. Nobody can make me tell them what you said to me, and I won't.

Maybe you've heard about this thing they call the attorney-client privilege. The law says that when a person is talking to her lawyer, whatever she tells the lawyer is confidential and secret between the two of them. This is because the law recognizes that the lawyer's obligation is to her client and to nobody else; that the lawyer is supposed to be 100% on the client's side; that the lawyer is only supposed to help her client and never do anything--or tell anybody anything--that might hurt the client in any way. The prosecutor is the one who is supposed to represent the government in prosecuting cases; and the judge's job is to judge the cases. But the law wants to make sure that--even if everybody else is lined up against an accused--there is one person who is not supposed to look out for the government but to be completely for the person who's accused of the crime. That is the person's lawyer.

As your lawyer, I am completely for you. And I could not be completely for you if I could be forced to tell anybody else the things that you say to me in private. So you can trust me and tell me anything you want without worrying that I will ever pass it along to anyone else because I won't. I cannot be questioned or forced to talk about what you tell me, even by a court, and I am not allowed to tell it to anyone else without your permission because I am 100% on your side, and my job is to work for you and only for you; so everything we talk about stays just between us.¹

1.4.2. Explain what she can expect from you and what you will expect from her.

- Explain that you will:
 - Work hard
 - Fight for her
 - Promptly respond to her requests for information or assistance.
 - Keep her informed
- Explain that it will help her case if she:
 - Does things or answer questions that you ask her as soon as possible
 - Helps you find witnesses and information
 - Keeps you informed of new information

- Tries to answer all your questions as accurately and completely as she can
- Receives positive behavior reports

1.4.3. Explain the need for note taking.

- Explain why you **need to take notes** or use this form. For example:

Your case is too important for me to rely just on my memory. I need to make sure that I get all of the details right. That's why I'm taking notes now. No one but me or the people working for me will see these notes. They are protected by the attorney-client privilege we talked about before.

1.4.4. Ask the client about the current charge(s).

Allow the client to tell you what happened with few interruptions. Listen with two goals in mind:

1. **To get an overall picture of the client's story that you can use later when seeking specific information.** Remember that you may have to wait until your client feels comfortable with you before you get the whole story.
2. **To assess initially the client's personality, intelligence, and communication ability.**

Go over the story again in more detail. Help the client tell her story but try to use open-ended questions as much as possible. When you are taking notes, make sure to read over your notes and read back a summary of what the client has said in order to (1) make sure you have details correct and (2) make the client feel more at ease with your note taking. Avoid long periods of writing with silence. Continually intersperse periods of writing with asking questions and listening. Go back and fill in any gaps or necessary details.

The client should be asked to tell what she knows about the present charges in chronological order. Remember, **detail is essential. Continually ask who, what, where, when, why, and how. If there are any potential witnesses, get all the contact information you can.**

1.5. Final wrap-up of private interview with client

- Give your client your business card and Form F4. "Assertion of *Miranda* Rights Card" on page 146 to carry with her at all times.
- Remind her not to talk to anyone about this case except you.
- Remind her that if the police pick her up, she should give them her "Assertion of *Miranda* Rights Card" and to refuse to answer any questions other than her name and address.
- Remind her that if she ends up in court before you can get to her, she should tell the judge and court staff that you are her lawyer and that you have instructed her not to speak about her case.
- Remind her to call you as soon as she learns any new information about her case.
- Remind her that you value her opinion and that you will do all you can to help her.
- Ask the client if she has any questions or specific requests.
- Bring the parent back to the interview room.

1.6. Final meeting with the client and her parent

- ❑ Ask the parent to refrain from discussing the case with anyone else and to refrain from asking the child details about the interview because of the attorney-client privilege.
- ❑ Explain what is going to happen next with regard to the case and court.
- ❑ Schedule future follow-up interviews and counseling sessions.
- ❑ Give both the client and the parent your card.
- ❑ Go over with both your client and the parent: (1) the schedule for future meetings you just made, (2) documents they need to find for you, (3) witnesses they need to contact for you, and (4) questions they need to answer for you.
- ❑ Complete the interview with both the parent and client.

1.7. Supplemental parent interview

- ❑ If necessary, interview the parent separately using Form F5. Supplemental Parent Interview Form on page 147.

1.8.1. Supplemental Parent Interview Checklist

- ❑ **Interview the parent separately.** Politely ask the client to wait in another area while you interview the parent.
- ❑ Go over the **attorney-client relationship** between you and your client with the parent again (to include the attorney-client privilege and the importance of confidentiality). Make sure she understands that you are working for her child and not her.
- ❑ Give the parent a copy of the JustChildren *Parent Handbook* (which is available on Disk Two, <ParentManual.doc/rtf>).

ⁱ See RANDY HERTZ, MARTIN GUGGENHEIM, & ANTHONY AMSTERDAM, *supra* note 13, at 140. Reprinted with permission of the American Law Institute-American Bar Association Committee on Continuing Professional Education.